

REMARKS

In the Office Action, the Examiner rejected all of the claims based on 35 USC 101 as directed to non-statutory subject matter. The Examiner also indicated that the claims would be allowed if the section 101 rejection was overcome.

As an initial matter, applicants believe that the claims as previously presented were directed to statutory subject matter. More specifically, none of the claims are directed to a “law of nature, a natural phenomena or abstract idea.” The Examiner’s attention is directed to the Federal Circuit’s decision in *Arrhythmia Research Tech. v. Corazonix Corp.*, 958 F.2d 1053, 1059, 22 USPQ2d 1033, 1038 (Fed. Cir. 1992) which was cited with approval in the OG Notice: 22 November 2005, “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility.” In this case, the Federal Circuit considered a method claim composed of steps for manipulating data. The data was derived from electrocardiograph signals from a patient’s heart. The Court found the claim statutory because the result was not merely an abstract number but a signal related to the patient’s heart activity, a tangible, real world result. (As stated in the Interim Guidelines, “*the claimed invention in Arrhythmia "constituted a practical application of an abstract idea (a mathematical algorithm, formula, or calculation), because it corresponded to a useful, concrete and tangible thing - the condition of a patient's heart."*”)

The previously submitted claims are analogous to those presented to the Federal Circuit in the *Arrhythmia* case and can be analyzed in a similar manner. Applicants’ process claim claims relate to measuring a semiconductor wafer. The results of the method, such as obtaining an abruptness value, is not merely an abstract idea but information “corresponding to a useful, concrete tangible thing” - the tested wafer. The section 101 rejection misinterprets the Guidelines and completely ignores the underlying case law.

Although applicants disagree with the Examiner for the reasons set forth above, applicants have amended the claims to expedite prosecution. More specifically, each of the claims has been amended to recite the additional step of storing the derived information. Storing information is a tangible step which should overcome the section 101 rejection.

It is noted that the word “storing” is not expressly found in the subject application, however, such a step would be understood as being inherently disclosed by one skilled in the art. More specifically, both Figures 1a and 1b show processors which necessarily include some form

of memory. More importantly, Figures 7, 9, 10, 12 and 13 all shows maps of data which can only be created if the results of the measurements are stored and then displayed. It is also noted that the specification describes the inspection step wherein signals are "monitored and **recorded** as a function of time," which indicates the data storage capability of the system. (See specification, page 10, line 30). For these reasons, it is believed that no new matter has been added to the claims.

Based on the above, it is respectfully submitted that the claims are now in condition for allowance and early action is respectfully requested.

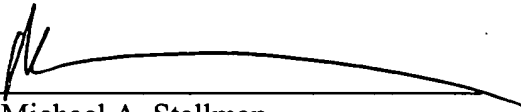
Respectfully submitted,

STALLMAN & POLLOCK LLP

Dated: _____

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By: _____


Michael A. Stallman
Reg. No. 29,444

Attorneys for Applicant(s)